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to resume, except upon ten days' notice to all parties.

§ 351.14 Transcript and record.

(a) An official reporter for the recording and transcribing of hearings shall be designated by the Copyright Royalty Board. Anyone wishing to inspect the transcript of a hearing may do so at the offices of the Board.

(b) The transcript of testimony and all exhibits, documents, filings and other items submitted in the course of a proceeding shall constitute the official written record. The written record, along with the Board's final determination, shall be available at the Board's offices for public inspection and copying.

§ 351.15 Proposed findings of fact and conclusions of law.

(a) Any party to the proceeding may file proposed findings of fact and conclusions, briefs or memoranda of law, or may be directed by the Board to do so. Such filings, and any replies to them, shall take place at such time after the record has been closed as the Board directs.

(b) Failure to file when directed to do so shall be considered a waiver of the right to participate further in the proceeding unless good cause for the failure is shown.

(c) Proposed findings of fact shall be numbered by paragraph and include all basic evidentiary facts developed on the record used to support proposed conclusions, and shall contain appropriate citations to the record for each evidentiary fact. Proposed conclusions shall be stated and numbered by paragraph separately.

PART 352—DETERMINATIONS

Sec.

352.1 How made.

352.2 Timing.

352.3 Final determinations.

AUTHORITY: 17 U.S.C. 803.

SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

§ 352.1 How made.

Except for decisions authorized by law to be made by a single Copyright Royalty Judge, determinations of the

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Board in a proceeding will be made by a majority of the Copyright Royalty Judges. The opinion or opinions of the majority and any dissenting opinion will be included in the determination. Each determination by the Board will be transmitted to the Register of Copyrights to enable review for consistency with the Copyright Act on the day it is issued.

§ 352.2 Timing.

The Copyright Royalty Board will issue its determination within 11 months of the date of the post-discovery settlement conference or 15 days before the expiration of the existing rates or terms in a proceeding to determine successors to rates or terms that will expire on a specific date, whichever date first occurs.

§ 352.3 Final determinations.

The determination by the Board in a proceeding will become final 15 days after it is issued, unless it is withdrawn by the Board on its own motion, suspended pending rehearing proceedings, or the Register of Copyrights advises the Board that its determination is inconsistent with the Copyright Act. The final determination will be published in the FEDERAL REGISTER.

PART 353—REHEARING

Sec.

353.1 When granted.

353.2 Form and content of rehearing motions.

353.3 Procedure on rehearing.

353.4 Filing deadline.

353.5 Participation not required.

AUTHORITY: 17 U.S.C. 803.

SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

§ 353.1 When granted.

A motion for rehearing may be filed by any participant in the relevant proceeding. The Copyright Royalty Board may grant rehearing upon a showing that any aspect of the Board's determination may be erroneous. Rehearing will be granted only in exceptional cases, however, and should not be sought merely to reargue a rate or distribution level determination that falls

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within the zone of reasonableness established by the record.

SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

§ 353.2 Form and content of rehearing motions.

A motion for rehearing shall not exceed 10 pages in length and must set forth, in the beginning of its text, a brief summary statement of the aspects of the determination believed by the moving participant to be without evidentiary support in the record or contrary to legal requirements.

§ 353.3 Procedure on rehearing.

Upon receipt of a motion for rehearing, the Copyright Royalty Board will issue an order either denying the motion or ordering further proceedings. No participant shall file a response to a rehearing motion, unless such response is allowed by order of the Copyright Royalty Board.

§ 353.4 Filing deadline.

A motion for hearing must be filed within 10 days after the date on which the Copyright Royalty Board delivers to the participants an initial determination.

§ 353.5 Participation not required.

In any case in which a response to a rehearing motion is allowed, or rehearing is granted, an opposing party shall not be required to participate in the rehearing. The Copyright Royalty Board will not draw any negative inference from a lack of participation in a rehearing. However, participants should be aware that nonparticipation in rehearing proceedings may limit the scope of their participation in judicial review proceedings as set forth in 17 U.S.C. 803(d)(1).

PART 354—SUBMISSIONS TO THE REGISTER OF COPYRIGHTS

Sec.

354.1 Material questions of copyright law.

354.2 Novel questions.

354.3 Register of Copyrights' authority to redesignate referrals.

354.4 Consultation regarding acts required by the Register of Copyrights.

354.5 Jurisdiction of the Copyright Royalty Board unaffected.

AUTHORITY: 17 U.S.C. 802.

§ 354.1 Material questions of copyright law.

(a) *Discretionary referrals.* The Copyright Royalty Board may seek guidance from the Register of Copyrights with respect to a material question of substantive law, concerning an interpretation or construction of those provisions of the Copyright Act, that arises in the course of their proceedings.

(b) *How presented.* One or more of the Copyright Royalty Judges may refer what he or she believes to be a material question of substantive law to the Register of Copyrights at any time during a proceeding.

(c) *Motion; content.* Any participant may submit a motion to the Copyright Royalty Board (but not to the Register of Copyrights) requesting their referral to the Register of Copyrights a question that the participant believes would be suitable for referral under paragraph (a) of this section. The motion should be captioned "Motion of [Participant(s)] Requesting Referral of Material Question of Substantive Law." The motion should set forth, at the outset, the precise legal question for which the moving party is seeking interlocutory referral to the Register of Copyrights. The motion should then proceed to explain, with brevity, why the issue meets the criteria for potential referral under paragraph (a) of this section and why the interests of fair and efficient adjudication would be best served by obtaining interlocutory guidance from the Register of Copyrights. The motion should not include argument on the merits of the issue, but may include a suggested schedule of briefing that would make reasonable provision for comments and legal arguments, in such a way as to avoid delay and duplication.

(d) *Time of motion.* A motion for referral of a material question of substantive law to the Register of Copyrights should be filed as soon as possible in the relevant proceeding. However, such a motion may be submitted to the Copyright Royalty Board at any time before a final determination is issued.